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Common Rules of State Support of Agriculture in the Customs Union

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Agricultural Situation

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Report Highlights:

In mid-July 2011, Russia ratified the Customs Union agreement on Common Rules of State Support of Agriculture, which obliges the member countries not to apply state support measures which distort agricultural and food trade between Customs Union members. The agreement tries to follow some WTO requirements on state support, although Customs Union countries are not yet members of the WTO. It also states that when any country of Customs Union joins the WTO, its obligations before the WTO will take priority.

General Information:

The Federal Law No. 177-FZ of July 11, 2011, ratified the Agreement on Common Rules of State Support of Agriculture in the member countries of the Customs Union. The law was published in the Rossiyskaya Gazeta on July 14, 2011, and comes into force on July 25, 2011:

<http://www.rg.ru/2011/07/14/selhozpodderzhka-dok.html>). The Agreement on the Common Rules of the State Support of Agriculture had been adopted at the meeting of the Commission of the Customs Union on December 8, 2010 (Decision #482 On the execution of plan of actions aimed at formation of the common economic space of Republic of Belarus, Republic of Kazakhstan and the Russian Federation), and signed by representatives of the three members of the Customs Union, on December 9, 2010. The text of the Agreement is on the site:

<http://www.tsouz.ru/MGS/MGS13/Documents/Соглашение%20селхоз.pdf>

The Agreement states that the country-members of the Customs Union (Parties) shall not apply measures that have distorting effects on trade in agricultural and food products between members of the Customs Union. The products are grouped by Custom Codes of the Foreign Economic Activity of the Customs Union and include the following groups: 01 -24 (except commodity groups 03, 1604 and 1604), 2905 43 000 0, 2905 44, 3301, 3501-3505, 3809 10, 3824 60, 4101-4103, 4301, 5001 00 000 0 – 5003 00 000 0, 5101 – 5103, 5201 00 – 5203 00 000 0, 5301, and 5302.

The Agreement lays out common principles and methods of calculation of state support of agriculture, either in the form of direct transfer of budget funds, credit guarantees, government purchase of commodities, services, enterprises, shares, debt deductions, non-repayable services or commodity donations of the government, or price support.

The Agreement classifies measures of state support in three categories: Measures that do not distort agricultural and food products trade between Customs Union countries; Measures that distort trade to a severe extent; and Measures that distort trade (but not to a severe extent). This last group covers all measures which do not fall into the first two categories. The Agreement also lays out the requirements of Customs Union members for each of these categories.

Measures of state support that do not distort the mutual trade of the parties

Such measures can be applied without limitations. The Agreement lists these measures as the following:

1. State Programs that provide different types of services to rural population and agricultural producers, with the exception of direct subsidies to those who produce and/or process agricultural products. These services may include agricultural and agriculture-related research programs, pest and disease control, education and training, information and extension services, safety inspection and quality control, marketing and commodity promotional services (with the

exception of such services that may decrease prices or provide economic benefits for buyers), and/or development of infrastructure.

2. The creation of state food reserves that guarantee food security of the country. The accumulation and distribution of such reserves shall be financially transparent, and purchases and sales shall be based on the current market prices.
3. Domestic food aid to vulnerable populations. Government procurements of foodstuff for such programs shall be transparent and based on the current market prices.
4. “Non-linked” income support of producers, which shall not depend on volumes of production, domestic and foreign market prices, or cost of production.
5. Financial participation of the bodies of state power in insurance of producers’ incomes. The Agreement determines principles and shares of allowed income compensations.
6. Subsidies for producers for crop insurance and disaster compensations. The Agreement determines principles and limitations of such payments.
7. Assistance for structural changes of agriculture through programs that induce producers to discontinue or shift their production.
8. Assistance for structural changes through programs that induce producers to stop the use of resources.
9. Assistance for structural changes through investment stimulation.
10. Payments for protection of environment.
11. Regional programs payments.

Measures of state support of agriculture that severely distort mutual trade of the parties

These measures cannot be applied at all, and if by chance they are applied, shall be immediately recalled, with severe penalties and compensations paid to the parties that suffered from these measures. The penalties and compensations, however, are not determined by the Agreement. The Agreement did not specifically list which measures fall into this group, as they did for the previous group of measures, although they did give examples including:

- Direct subsidies (including in-kind subsidies) to certain agricultural producers (or producer groups, associations) linked with the result of exports of their products.
- Government exports of commodities from non-commercial stocks at prices below domestic prices.
- Preferential transportation tariffs for exported commodities.
- Subsidies that reduce the cost of marketing of products on the territory of other Customs Union members, with the exception of export promotional and consultancy services.

Measures of state support that distort the mutual trade in agricultural and food products

All measures of state support that do not fall in the first two categories fall under this category, and the Agreement does not specifically list or give examples of these measures. The Agreement determines that the amount of state support in the members of the Customs Union which falls under this category

shall not exceed 10 percent of the gross value of agricultural products produced by the country. Since at present the state support in Belarus is higher than in Russia and in Kazakhstan, the Agreement creates a transitional period for Belarus until 2016. Belarus must gradually decrease the level of state support in this category from 16 percent in 2011 to 10 percent in 2016.

In accordance with the Agreement, the member-countries shall inform each other in writing about all planned programs of state support, changes in these programs, and cannot limit or conceal this information. The Agreement also outlines the responsibilities of Custom Union members for violation of this Agreement, and describes dispute-settlement procedures.

The Commission of the Customs Union will control the performance of the Agreement. Also, the Agreement states that when any Customs Union member joins the WTO, the level of state support is installed within the obligations of this country to the WTO. Thus, it confirms the priority of obligations within the WTO.

The Agreement comes to force after the Customs Union receives written notifications from the Parties that the Agreement is ratified at the national level. The FL No 177-FZ of July 11, 2011, means that Russia has ratified this Agreement.

Comment

The Agreement on the Common Rules of the State Support of Agriculture seems to be a step forward to adjusting the agricultural state support norms in Belarus, Russia and Kazakhstan to international norms of agricultural trade and to WTO requirements. It also determines the priority of WTO requirements for any member of the Customs Union, when that country joins WTO. However, the Agreement is more of a framework and does not give a detailed mechanism for division between measures that affect mutual trade, and those that do not, does not develop detailed formulas for estimation of effect of different state support programs on agricultural trade, thus providing areas for disputes and uncertainties. The implementation of the Agreement will depend on the transparency of budget data provided, on the unbiased control over budget spending in Russia and in other members of the Customs Union, which may be in conflict with some current domestic laws of individual countries, and with the current de-facto non-transparency of economic systems of some of the countries.